IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.571 OF 2004

M/s Shrijee India Exports Pvt.Ltd.... Petitioners

v/s

Nilesh B. Sanghvi and anr. ... Respondents

Mr Anil Agarwal for Petitioners.

Mr V. Walawalkar i/b Mr Rakesh Jain for Respondents.

CORAM : D.K.DESHMUKH J.

DATE : 8TH FEBRUARY 2005

P.C.: -

1. By this petition, filed under section 34 of the Arbitration and Conciliation Act 1996, an award made by the Arbitral Tribunal of a trade body is challenged. The first challenge to the award is that the settlement dated 22nd March 2002 has wrongly been rejected by the Arbitrators. So far as that aspect of the matter is concerned, the Arbitral Tribunal has said that had there been a settlement on the dispute between the parties on 27th February 2002, this would have been firstly pointed out by the petitioners after receiving notice by the Arbitral Tribunal that the dispute, which is referred to arbitration, has long been resolved between the parties by a settlement and therefore, the Arbitrators have disbelieved the case of settlement. I do not find any illegality in he finding recorded by the Arbitrators. The second ground of challenge is that though the petitioners had produced documents showing that the defective goods were returned by the petitioners to the respondents, the Arbitral Tribunal has observed that the petitioners did not produce documents showing return of the defective goods. The learned counsel appearing for petitioners is not able to point out any averment in the petition that the finding recorded by the Arbitral

Tribunal that the documentary evidence regarding return of the defective goods, was not produced by the petitioners is wrong. He is not able to point out from the petition as to which was the document produced before the Arbitrators in relation to return of the defective goods. In the absence of proper averments in the petition therefore, this ground also cannot be considered. It was next urged that the Arbitral Tribunal did not have the jurisdiction to arbitrate on the matter. However, admittedly, this contention has not been raised before the Arbitral Tribunal in accordance with the provisions of section 16 of the said Act. Therefore, this ground also cannot be sustained. In my opinion, considering that this is an award made by the Arbitral Tribunal appointed by trade body and considering the limited scope to interfere with the award under section 34 of the Act, the view taken by the Arbitral Tribunal is a possible view on the basis of material on record. The award cannot be interfered with. Petition is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.